

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

JAMES C. BAKER,)
Petitioner,) Nos. 1:03-cv-398; 1:04-cv-47 / 1:00-cr-113
v.) Edgar
UNITED STATES OF AMERICA,)
Respondent.)

JUDGMENT ORDER

James C. Baker's motion to amend [Doc. No. 7] his motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 is **GRANTED**. However, for the reasons expressed in the accompanying memorandum, Baker's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 [Doc. No. 1] is **DENIED**. This action for post-conviction relief and the consolidated case, Civil Action Number 1:04-cv-47, are **DISMISSED**.

Should Baker file a timely notice of an appeal from this order, such notice will be treated as an application for a certificate of appealability, which is hereby **DENIED** since he has failed to make a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2); FED. R. APP. P. 22(b).

In addition, the Court has reviewed this case pursuant to 28 U.S.C. § 1915(a)(3) and Rule 24 of the FEDERAL RULES OF APPELLATE PROCEDURE and hereby **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous.

Therefore, any application by Baker for leave to proceed *in forma pauperis* on appeal is
DENIED. 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24.

SO ORDERED.

ENTER this *25th day of July, 2005*.

/s/ R. Allan Edgar
R. ALLAN EDGAR
CHIEF UNITED STATES DISTRICT JUDGE